

In the United States Patent and Trademark Office

In re the application of:)		
Paul-David Morrison)		
)	Group Art Unit:	2174
Filed: 12-15-2000)		
)	Examiner:	Thanh T. Vu
For: Method and apparatus for)		
an interactive catalog)		
)		
Appl. No.: 09/738,050)		
)		
Appellant's Docket:)		
Silikon)		

REPLY BRIEF

Dear Sir:

This Reply Brief is responsive to Examiner's Answer dated January 8, 2008.

Claims 1, 2, 5, 6, 8, 10, 11, 13, 16, 18, 19, 20, 21, 22, 23

Item 1.

Examiner's Answer of January 8, 2008, page 14, asserts that Supplemental Appeal Brief of October 15, 2008, attacked the references separately with regard to claim 1. Appellant regrets that the language of the Supplemental Appeal Brief may be subject to this interpretation. To clarify, in stating that Wical does not teach "a first tier of tabs, each tab in the first tier of tabs representing a first collection of data objects corresponding thereto," [Supplemental Appeal Brief, page 18] and that Wical does not teach "in response to a selecting of a tab of the first tier to produce a selected first tier tab, presenting a second tier of tabs, each tab in the second tier of tabs representing a second collection of data objects, each data object in the second tier also belonging to the first collection of data objects corresponding to the selected first tier tab," [Supplemental Appeal Brief, page 19], etc., Appellant does not intend to simply attack Wical's

failure to teach tabs. Appellant acknowledges that the rejection relies upon combining Suzuki's teaching about tabs with teachings of Wical.

It was not Appellant's intention to argue simply that Wical's failure to teach tabs overcomes the rejection. Appellant's argument is, in part, that Wical does not teach or suggest first, second, etc. of tiers of objects that are compatible with tabs such as those taught or suggested by Suzuki. All the more certainly, neither Wical, nor Wical and Suzuki combined, teach or suggest tiers of objects, where the tiers of objects are compatible with tabs such as those taught by Suzuki, and where the tiers of objects are structurally and functionally related in the manner recited in the claim.

A prior art reference must be considered in its entirety, including portions that would lead away from the claimed invention. MPEP Section 2141.03 (citing *W.L. Gore and Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540). If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims prima facie obvious. MPEP 2143.01 (citing *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959)).

It is Appellant's argument that neither Wical, nor Wical in combination with Suzuki, teaches or suggests what is recited in claim 1. In one respect, this is because in view of *all* the teachings of Wical and Suzuki it is clear that combining the teachings relied upon by the Present Office Action from Suzuki with the teachings relied upon by the Present Office Action from Wical, the principle of operation taught by Suzuki would have to be dramatically changed and in a manner that is not workable.

The rejection analogizes "menu options" in Wical to "graphical tabs" of Suzuki. Final Office Action, pages 2-3 (referring to Fig's 2a-2c of Wical and "menu options" such as "hard science and technology"); Examiner's Answer, page 4 ("Suzuki teaches . . . menu options . . . as graphical tabs. . ."). Appellant takes this to mean the rejection analogizes boxes 210 displaying category names in Fig's 2a-2c of Wical [e.g., Wical, col. 10, lines 24-29] to the tabs shown in Fig. 4 of Suzuki and discussed in Appellant's Supplemental Appeal Brief, pages 14-17. Final Office Action, page 3, referring to Fig. 4 of Suzuki. And Appellant takes it to mean the rejection analogizes the hierarchy of various category levels in Wical [e.g., Wical, col. 10, lines 34-36] to the "hierarchical menu options . . . displayed as graphical tabs" of Suzuki.

With regard to Fig. 4, Suzuki states that “Style-of-rendition icon windows are provided in a lower portion of the displayed screen, and a musical score corresponding to the original music-piece note data (white data) MD is shown in an upper portion of the displayed screen. Further, as display areas for showing style-of-rendition icons, first and second layers L1 and L2 are provided immediately above the musical score display area and a third layer L3 is provided immediately below the musical score display area. Thus, the display mode of FIG. 4 is called a “three-layer pasting” display mode.” Suzuki, col. 8, lines 47-57.

Appellant submits that the boxes 210 displaying category names, as described by Wical for Fig’s 2a-2c, are not suited to modification for use as tabs according to the tabs of the “three-layer pasting display mode,” as described and illustrated by Suzuki.

The functioning of and purpose for tabs taught by Suzuki are different than claim 1 of the present invention. Firstly, according to the arrangement described by Suzuki regarding Fig. 4, the selection of a tab from one tier in the bottom portion of the displayed screen affects one part of the top portion of the displayed screen, whereas the selection of a tab from a different tier in the bottom portion of the displayed screen affects a different part of the top portion of the displayed screen.¹ In contrast, claim 1 of the present invention, which recites “. . . in response to a selecting of a tab of the first tier . . . presenting a second tier of tabs . . . in response to a selecting of a tab of the second tier . . . presenting a third tier of tabs . . . in response to a selecting of a tab of the third tier, displaying a page from the electronic catalog database . . .”

Secondly, and perhaps even more importantly, the rejection analogizes allegedly “*hierarchical* menu options . . . displayed as graphical tabs” in Fig. 4 of Suzuki to boxes 210 displaying category names, as described by Wical for Fig’s 2a-2c. The rejection relates the tabs of Suzuki to “*hierarchical*” menu options because claim 1 recites tabs that have a hierarchical,

¹ For example, “In the case where saxophone (“Sax”) has been selected as shown in FIG. 4 . . . the user first clicks on the “attack” (“Attack”) state and then clicks on the “bend-up” (“BndUp”) style of rendition. . . . Then, as the user manipulates the mouse to drag and drop the leftmost “deep and slow” bend-up-candidate icon B11 at the location of the leading note (G4) in the first measure of the musical score data, a “deep and slow” bend-up icon B1d is pasted to a location of the second layer L2 corresponding to the leading note (G4) of the first measure as shown in FIG. 4.” Suzuki, col. 9, lines 48-62.

tiered relation to one another. However, the table in Fig. 12 of Suzuki shows that at least the first two rows of tabs in Fig. 4 are not related in this manner. That is, table indicates the first row of tabs in Fig. 4 is for selecting a column in the table, and the second row of tabs in Fig. 4 is for selecting a row in the table. Thus, the second row of tabs taught by Suzuki Fig. 4 is not a hierarchy below that of the first row of tabs. The second row of tabs does not belong to a tab of the first row.

Consequently, the tabs of Suzuki are not compatible with the Examiner's alleged teaching of Wical, "in response to a selecting of an menu option of the first tier . . . , presenting a second tier . . . , each data object in the second tier also belonging to the first . . . data objects corresponding to the selected first tier menu option" [Examiner's Answer, page 3], and are not compatible with claim 1, which recites "in response to a selecting of a tab of the first tier . . . , presenting a second tier of tabs . . . , each data object in the second tier also belonging to the first . . . data objects corresponding to the selected first tier tab." That is, claim 1 recites a hierarchical relation between tier one and tier two tabs. The tabs of Suzuki cannot be substituted into the teaching of Wical to produce the structure and function recited in claim 1.

For at least these reasons, Appellant submits that the combination of Wical and Suzuki is improper.

Item 2.

Likewise, Appellant argued that Wical does not teach "in response to a selecting of a tab of the third tier, displaying a page from the electronic catalog database," as recited in claim 1. Appellant wishes to reiterate, clarify and expand.

Once again, it was not Appellant's intention to argue simply that Wical's failure to teach tabs overcomes the rejection. Appellant acknowledges, once again, that the rejection relies upon combining Suzuki's teaching about tabs with teachings of Wical. Appellant's argument is that the rejection relies upon Wical, Fig. 2c, which the examiner asserts shows "a page from electronic catalog database displayed in 310 when a[n] option is selected," to meet the recited claim limitation "displaying a page from the electronic catalog database." Final Office Action of June 21, 2007, page 3; see also, Examiner's Answer, page 4. However, Wical does not teach this claim limitation. To establish *prima facie* obviousness of a claimed invention, all the

limitations of the subject claims must be taught or suggested by the art relied upon. MPEP 2143.03 (citing *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974); *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970)).

From the claim itself, it may be entirely clear that the term “page” refers to a electronic version of page, i.e., like a “page” from a paper catalog, which is an ordinary meaning. However, as referred to in the specification, the term “page” has two different meanings that depend upon the context. Consideration should also be given to the specification. *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1582, 39 USPQ2d 1573, 1577 (Fed. Cir. 1996).

The specification meanings of the term “page” are evident in the following passage:

Referring now to FIG. 9, which is a screen of a catalog browser and an electronic bookcase embodiment of the current invention, the catalog viewing page 400 is displayed as in FIG. 1

...
Once a catalog is accessed, it is preferably displayed in the viewing window 400 in a manner such as described by FIG. 1. The catalogs are preferably formatted in a manner that permits the display of the multiple tiers of tabs as described in FIGs. 1-8. . . . The tabs or buttons 401-406 permit each displayed catalog to be manipulated, such as accessing the previous catalog page 401, accessing the next catalog page 402, . . . Thus the libraries permit the organization and access of current catalogs for professionals including purchasing agents, engineers, scientists, and architects who require occasional or frequent access to a variety of catalogs.

Current application, page 44, line 11 - page 45, line 15.

From the above passage it should be understood that in claim 1, “displaying a page from the electronic catalog database” refers to a catalog page, such as “catalog page 401,” and not a “catalog viewing page” of a user interface (e.g., browser), such as “viewing window 400.” That is, it would *not* make sense to state “displaying a catalog viewing page from the . . . catalog . . .” On the other hand, it *does* make sense to state “displaying a catalog page from the . . . catalog . . .”

The Final Office Action, page 3, argues that in Wical Fig. 2c, a “page from [an] electronic catalog database is displayed in 310 when a tab is selected.” See also Examiner’s Answer, page 4. However, in the teaching relied upon for the rejection, Wical does not teach or suggest that there is “displayed in 310” a “page from the electronic catalog database, “as the term “page” is used in claim 1 of the present application.

Regarding example displays Figs. 2a-2e, Wical states that they “illustrate navigating with the categories generated from the topic table 165,” [Wical, col. 10, lines 12-13] which includes a “hierarchy of topics . . . based on themes extracted from the documents 100” [Wical, col. 6, lines

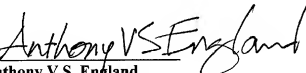
60-63]. Describing Fig. 2c, Wical states "In response, the virtual bookshelf system displays the first page of the hierarchical structure for the parent node of 'hard science and technology.' The hierarchical structure is displayed in a navigation section 310 and a history section 300. " Wical, col. 12, lines 14-18.

From the above context from Wical, it should be appreciated that Wical's navigation section 310 that is relied upon for the rejection is a viewing page of a user interface, not a page from the electronic catalog database, "as the term "page" is used in claim 1 of the present application. Consequently, the teaching relied upon for the rejection does not meet the recited claim limitation "displaying a page from the electronic catalog database."

REQUEST FOR ACTION

Based on the above arguments and Appellant's previously filed Appeal Brief, Appellant requests that all pending claims of the present application be allowed and the application promptly be passed to issuance.

Respectfully submitted,

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